

CHAPTER 434

S.P. 630 - L.D. 1812

An Act to Prevent Infestation of Invasive Aquatic Plants and to Control Other Invasive Species

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, invasive aquatic plants and nuisance species pose a substantive threat to the environment and economy of the State; and

Whereas, the most common method of spreading invasive aquatic plants is on recreational boats, watercraft trailers and fishing equipment; and

Whereas, Maine's inland waters face an immediate threat of infestation by invasive aquatic plants during the 2001 summer boating season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 12 MRSA §7791, sub-§1-B is enacted to read:

1-B. Aquatic plant. "Aquatic plant" means a vascular plant species that requires a permanently flooded freshwater habitat.

Sec. A-2. 12 MRSA §7791, sub-§3-A is enacted to read:

3-A. Invasive aquatic plant. "Invasive aquatic plant" means a species of aquatic plant described in Title 38, section 410-N.

Sec. A-3. 12 MRSA §§7794-B and 7794-C are enacted to read:

§7794-B. Lake and river protection sticker

Beginning on January 1, 2002, and by January 1st of each subsequent year, the commissioner shall provide each agent authorized to register watercraft or issue licenses with a sufficient quantity of lake and river protection stickers for that boating season. The sticker must be in 2 parts so that one part of the sticker can be affixed to each side of the bow of a motorboat or personal watercraft. The fee for a sticker is \$20 for a motorboat or personal watercraft not registered in the State and \$10 for a motorboat or personal watercraft registered in the State.

1. Disposition of sticker revenues. All fees collected by the commissioner from the sale of stickers under this section are paid daily to the Treasurer of State. Notwithstanding section 7800, the treasurer shall credit funds received under this subsection as follows:

A. Sixty percent of the revenues are credited to the Invasive Aquatic Plant and Nuisance Species Fund established in the Department of Environmental Protection under Title 38, section 1863; and

B. Forty percent of the revenues are credited to the Lake and River Protection Fund established in the department under section 7806.

2. Administrative cost. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section.

§7794-C. Lake and river protection sticker required

Beginning January 1, 2002, a person may not operate a motorboat or personal watercraft on the inland waters of the State unless a lake and river protection sticker issued under section 7794-B is affixed to both sides of the bow above the water line and approximately 3 inches behind the validation sticker required under section 7794.

Sec. A-4. 12 MRSA §7801, sub-§§37 to 39 are enacted to read:

37. Failure to display lake and river protection sticker. Beginning January 1, 2002, a person who places a motorboat or personal watercraft upon the inland waters of the State without displaying a lake and river protection sticker as required by section 7794-C commits a civil violation for which a forfeiture of not less than \$100 and not more than \$250 per violation may be adjudged, except that a citation for a violation of this subsection may not be issued to a person who is also issued a citation at the same time for another violation of any provision of this section. A forfeiture imposed under this subsection may not be waived by the court.

38. Launching a contaminated watercraft. A person who places a watercraft that is contaminated with an invasive aquatic plant upon the inland waters of the State commits a civil violation for which a forfeiture of not less than \$500 and not more than \$5,000 per violation may be adjudged. A forfeiture imposed under this subsection may not be waived by the court.

39. Operating a watercraft in a quarantined area. A person who operates a watercraft in violation of an order issued under Title 38, section 1864 commits a civil violation for which a forfeiture of not less than \$500 and not more than \$5,000 per violation may be adjudged. A forfeiture imposed under this subsection may not be waived by the court.

Sec. A-5. 12 MRSA §7806 is enacted to read:

§7806. Lake and River Protection Fund

The Lake and River Protection Fund, referred to in this section as the "fund," is created within the department as a nonlapsing fund. The fund must be administered by the commissioner. The fund is funded from fees collected for lake and river protection stickers issued under section 7794-B and from other funds accepted for those purposes by the commissioner or allocated or appropriated by the Legislature. Money in the fund may be used for enforcing laws pertaining to invasive aquatic plants, inspecting watercraft for

invasive aquatic plant materials, educational and informational efforts targeted at invasive aquatic plant prevention, eradication and management activities and the production and distribution of lake and river protection stickers required under section 7794-B.

Sec. A-6. 38 MRSA §419-C, sub-§2, as enacted by PL 1999, c. 722, §2, is amended to read:

2. Penalty. A person who ~~intentionally~~ violates this section commits a civil violation for which ~~a warning may be issued for the first violation~~, a forfeiture not to exceed ~~\$50~~ \$500 may be adjudged for the ~~2nd first~~ violation and a forfeiture not to exceed ~~\$500~~ \$2,500 may be adjudged for a subsequent violation.

Sec. A-7. 38 MRSA c. 20-A is enacted to read:

CHAPTER 20-A

PROGRAM TO PREVENT INFESTATION OF AND TO CONTROL INVASIVE AQUATIC PLANTS

§1861. Definitions

As used in this chapter and chapter 20-B, unless the context otherwise indicates, the following terms have the following meanings.

1. Invasive aquatic plant. "Invasive aquatic plant" means a species of aquatic plant described in section 410-N.

2. Nuisance species. "Nuisance species" means an aquatic or terrestrial nonindigenous species that threatens the diversity or abundance of native species, the ecological stability of infested waters or commercial, agricultural, aquacultural or recreational activity dependent on such waters as identified by the department through rulemaking.

3. Watercraft. "Watercraft" has the same meaning as in Title 12, section 7791, subsection 14.

§1862. Program to prevent infestation of and to control invasive aquatic plants

1. Program. The commissioner and the Commissioner of Inland Fisheries and Wildlife jointly shall implement a program to inspect watercraft, watercraft trailers and outboard motors at or near the border of the State and at boat launching sites for the presence of invasive aquatic plants and to provide educational materials to the public and to watercraft owners regarding invasive aquatic plants.

2. Other inspection stations allowed. The program established under this section also may include inspections at boat launching sites on inland waters that are already infested and at boat launching sites on the inland waters that have been identified as most at risk of introduction of invasive aquatic plants.

3. Informational material to be provided. The program established under this section must provide for the distribution of informational material on invasive aquatic plants, including a guide to identifying those plants, information on how to prevent the spread of those plants and information on the potential environmental impact and other impacts of infestation.

4. Program implementation. During the 2001 boating season, the department and the Department of Inland Fisheries and Wildlife shall spend at least 5,000 person hours inspecting watercraft, watercraft trailers and outboard motors at selected boat launching sites and at no fewer than 10 roadside locations at or near the state border. In 2001, the program established under this section also must include an extensive educational effort involving a variety of media with the goal of informing the public of the risks posed by invasive aquatic plants, how to inspect watercraft, watercraft trailers and outboard motors for the presence of invasive aquatic plant material and how to properly dispose of that material. The program also must include other invasive aquatic plant-related inspection or educational efforts considered appropriate by the commissioner and the Commissioner of Inland Fisheries and Wildlife.

The program in 2002 and subsequent years must be at a level of effort determined by the commissioner and the Commissioner of Inland Fisheries and Wildlife in consultation with the Interagency Task Force on Invasive Aquatic Plant and Nuisance Species, as established in section 1871.

§1863. Invasive Aquatic Plant and Nuisance Species Fund

The Invasive Aquatic Plant and Nuisance Species Fund, referred to in this section as the "fund," is created within the department as a nonlapsing fund. The fund is administered by the commissioner. The fund is funded from fees collected for lake and river protection stickers issued under Title 12, section 7794-B and from other funds accepted for those purposes by the commissioner or allocated or appropriated by the Legislature. Money in the fund may be used only for costs related to conducting inspections under section 1862, conducting invasive aquatic plant prevention, containment, eradication and management activities and reimbursing agencies as necessary for costs associated with conducting or enforcing the provisions of this chapter and chapter 20-B. The commissioner may also use funds to contract with municipalities or other entities to conduct inspection, prevention or eradication programs to protect the inland waters of the State from invasive aquatic plant and nuisance species.

§1864. Emergency authority to regulate surface use

The commissioner and the Commissioner of Inland Fisheries and Wildlife may jointly issue an emergency order to restrict or prohibit the use of any watercraft on all or a portion of a water body that has a confirmed infestation of an invasive aquatic plant. The order must be for a specific period of time and may be issued only when the use of watercraft on that water body threatens to worsen or spread the infestation. The order may require that watercraft on waters affected by the order be taken out of the water only at locations identified in the order and be inspected and cleaned by the department upon removal.

If the infested water body is a public drinking water supply, public notification by the commissioner and the Commissioner of Inland Fisheries and Wildlife is required prior to any response action that proposes the use of a chemical control agent. Public notification must include, at a minimum, notification of adjoining municipalities, property owners, drinking water suppliers who use that water supply and other affected persons, and must provide adequate time for public review and comment on the proposed emergency action. Chemical control agents may not be used on a water body that is a public water supply without the prior written consent of each public water supplier using that water body.

PART B

Sec. B-1. 5 MRSA §12004-D, sub-§6 is enacted to read:

6. Interagency Task
§1871
Force on Invasive Aquatic
Plants and Nuisance
Species

Expenses
Only

38 MRSA

Sec. B-2. 38 MRSA c. 20-B is enacted to read:

CHAPTER 20-B

INVASIVE AQUATIC PLANTS AND NUISANCE **SPECIES CONTROL**

§1871. Interagency Task Force on Invasive Aquatic Plants and **Nuisance Species**

The Interagency Task Force on Invasive Aquatic Plants and Nuisance Species, as established by Title 5, section 12004-D, subsection 6 and referred to in this chapter as the "task force," is established to advise the Land and Water Resources Council, established in Title 5, section 3331, on matters pertaining to research, control and eradication of invasive aquatic plants and nuisance species.

1. Membership. The task force consists of 17 members as follows:

A. The following 5 ex officio voting members:

- (1) The commissioner or the commissioner's designee, who serves as the chair of the task force;
- (2) The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;
- (3) The Commissioner of Human Services or the commissioner's designee;
- (4) The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee; and
- (5) The Commissioner of Conservation or the commissioner's designee;
and

B. Twelve members representing the public appointed by the Governor:

- (1) One representative of the State's lake associations;
- (2) One representative of a statewide recreational watercraft owners association;
- (3) One representative of a statewide organization of marina owners;
- (4) One representative of a lakes education program;
- (5) One representative of public drinking water utilities;
- (6) One representative of commercial tree and garden nurseries;
- (7) One representative of home gardeners;

(8) One representative of municipal government;

(9) One representative of a statewide sporting association;

(10) One representative of a statewide outdoor recreational group;

(11) One person with demonstrated expertise in lake ecology; and

(12) One public member who has demonstrated experience or interest in the area of threats to fish and wildlife posed by invasive aquatic plants and nuisance species.

2. Terms. Members appointed by the Governor serve 4-year terms, except that, as determined by the Governor, of the initial appointments, 4 must be for 3 years, including the public member and 4 must be for 2 years. Members serve until their successors are appointed. A vacancy must be filled for the remainder of the unexpired term.

3. Advisory group of federal agency representatives. The task force may form an advisory group of federal agency representatives that may include, but is not limited to, representatives of the United States Department of the Interior, United States Fish and Wildlife Service and National Park Service assigned to Acadia National Park; the United States Department of Agriculture; the United States Forest Service within the United States Department of Agriculture; and the United States Environmental Protection Agency.

4. Duties. The task force may make recommendations to the Land and Water Resources Council on:

A. The importation and transportation of invasive aquatic plants and nuisance species;

B. Monitoring and educational programs aimed at the control of invasive aquatic plants and nuisance species;

C. A comprehensive state invasive aquatic plants and nuisance species management plan that meets the requirements of the National Invasive Species Act of 1996, 16 United States Code, Section 4722;

D. A statewide inventory of invasive aquatic plants and nuisance species;

E. Methods to improve cooperation of state, provincial, federal and nongovernmental agencies in the area of invasive aquatic plants and nuisance species prevention and control;

F. Recommendations on the feasibility of implementing lake protection assessment districts that allow residents and owners of land within 250 feet of inland waters to assess themselves to raise funds to assist in the prevention and control of invasive aquatic plants; and

G. Other recommendations as necessary to control the introduction of invasive aquatic plants and nuisance species in the State.

5. Regional cooperation. The task force shall work with representatives from federal, state and local agencies and private environmental and commercial interests in the northeastern United States to form a northeastern regional panel to establish priorities and

coordinate activities to prevent the spread of milfoil and other invasive aquatic plants and nuisance species in the Northeast.

6. Staff. The department shall provide staff support to the task force.

§1872. Action plan to protect State's inland waters

The task force shall also recommend to the Land and Water Resources Council an action plan to protect the State's inland waters from invasive aquatic plants and nuisance species. That plan may include, but is not limited to:

1. Identification of inland waters known to be infested. Identification of inland waters of the State that are known to be infested with invasive aquatic plants and nuisance species;

2. Vulnerability assessment. Recommendations on conducting a preliminary vulnerability assessment of the State's largest inland waters to identify the largest inland waters in the State most at risk of infestation by invasive aquatic plants and nuisance species. That assessment may include such factors as the proximity of the inland water body to other infested waters, proximity of major transportation routes, presence of a public watercraft launch, use of the inland water body by transient boaters, the number of lakefront property owners and other factors as the commissioner may determine to be appropriate. The assessment also must identify the most probable vectors or pathways of introduction of invasive aquatic plants and nuisance species and identify those inspection locations most likely to result in identification and prevention of new introductions;

3. Lake monitoring program. Recommendations on a program to monitor inland waters in the State for new introductions of invasive aquatic plants and nuisance species, including recommendations on implementing that program and methods to provide for the periodic inspection of inland waters for new introductions of invasive aquatic plants and nuisance species, particularly in areas close to public watercraft launch facilities;

4. Response program. Recommendations on a response program to deal with new introductions of invasive aquatic plants and nuisance species in inland waters in the State; and

5. Training and public information materials. Recommendations on the development and distribution of training materials and public information materials for use by the public, lake monitors and persons authorized to inspect boats for invasive aquatic plants and nuisance species.

PART C

Sec. C-1. Report to committee. The Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife jointly shall report to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Inland Fisheries and Wildlife no later than January 15, 2002 on the invasive aquatic plant education and inspection program, established in the Maine Revised Statutes, Title 38, section 1862, conducted during the 2001 boating season and on plans for that program for the boating seasons of 2002 and subsequent years. The report must quantify the hours spent by each agency on inspections, the number and type of informational materials produced and distributed and the number, type and location of any enforcement actions taken under the program. The report must also document the actual costs of operating that program in 2001 and the projected cost of operating the program in 2002 and subsequent years. The report shall evaluate the relative cost, efficiency and desirability of providing informational and inspection activities directly by the State and indirectly through contracts with municipalities and other entities.

Sec. C-2. Authority to report out legislation. The Joint Standing Committee on Natural Resources is authorized to report out legislation on invasive aquatic plants and nuisance species to the Second Regular Session of the 120th Legislature.

Sec. C-3. Transfers from the Maine Rainy Day Fund. On July 1, 2001, the State Controller shall transfer the following funds from the Maine Rainy Day Fund established under the Maine Revised Statutes, Title 5, section 1513:

1. Invasive Aquatic Plant and Nuisance Species Fund. Two hundred thirty thousand dollars is transferred from the Maine Rainy Day Fund to the Invasive Aquatic Plant and Nuisance Species Fund established in the Department of Environmental Protection pursuant to Title 38, section 1863; and

2. Lake and River Protection Fund. Three hundred thirty thousand dollars is transferred from the Rainy Day Fund to the Lake and River Protection Fund established in the Department of Inland Fisheries and Wildlife pursuant to Title 12, section 7806.

The Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall reimburse the Maine Rainy Day Fund in full no later than June 30, 2002 for all funds transferred under this section.

PART D

Sec. D-1. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Land and Water Quality		
Positions	(3.000)	
Personal Services	\$91,572	
All Other	155,000	
Capital Expenditures		17,000
<p>Allocates funds for one additional Biologist I position to start on September 1, 2001, one additional Environmental Specialist III position to start on January 1, 2002, one additional Environmental Specialist III position to start on March 1, 2002 and operating costs necessary to implement an invasive aquatic plants prevention program.</p>		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		

TOTAL	\$246,572	\$835,342
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**INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF**

**Enforcement Operations -
Inland Fisheries and Wildlife**

Positions - Legislative Count		(6.000)
Personal Services \$40,000	\$309,828	
All Other 15,000	80,000	
Capital Expenditures		90,000
TOTAL	<u>\$55,000</u>	<u>\$479,828</u>

Allocates funds to cover overtime enforcement costs for Game Wardens in fiscal year 2001-02, for 6 additional Game Warden positions beginning in fiscal year 2002-03 and for operating costs necessary to implement an invasive aquatic plants prevention program.

**Licensing Services -
Inland Fisheries and Wildlife**

All Other \$140,000	\$140,000	
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Allocates funds for the printing and distribution of lake and river protection stickers.

**Public Information and Education -
Division of**

Positions - Nonlegislative Count	(1.534)	(1.534)
Personal Services \$45,891	\$48,186	
All Other 30,000	30,000	
TOTAL	<u>\$75,891</u>	<u>\$78,186</u>

Allocates funds to increase 11 Recreational Safety Coordinator positions from 750 hours per year to 1040 hours per year and for increased operational costs for these positions.

**Fisheries and Hatcheries
Operations**

Positions - Nonlegislative Count	(0.500)	(0.500)
Personal Services \$24,103	\$25,308	
All Other 5,000	5,000	

TOTAL	<u>\$29,103</u>	<u>\$30,308</u>
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Allocates funds to fund one part-time Biologist I position and for increased operating costs for this position.

**DEPARTMENT OF INLAND FISHERIES
AND WILDLIFE** _____
TOTAL

<u>\$299,994</u>	<u>\$728,322</u>
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TOTAL ALLOCATIONS \$546,566

<u>\$1,563,664</u>	<u> </u>
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 20, 2001.